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ALEXANDER L. STEVAS,
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NO. 84-1741

IN THE

Supreme Court of the United States

OCTOBER TERM, 1984

CLIFFORD HENRY BOWEN,
Petitioner

v.

STATE OF OKLAHOMA,
Respondent

On Petition For A Writ of Certiorari to the Court of Criminal Appeals of the State of Oklahoma

THE PETITIONER'S REPLY TO THE RESPONSE IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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Petitioner is compelled to reply to arguments raised in the Respondent's Response In Opposition To Petition For A Writ Of Certiorari (hereafter referred to as

Response) that are premised on "facts" where no facts exist in the record. On the issue of ineffective assistance of counsel, Respondent submits on page 33 of its *Response* that "What appears at first to be a troubling failure of counsel is, in fact, a cunning tactical decision." Respondent then attempts to construct this argument with a discourse on trial defense counsel's alleged experience, thought processes, tactics, and accomplishments, and argues them as proven facts. (*Response,* pages 17, 18, 29, 36, 37, 38, Appendix C). It is significant that these "statements of facts" contain no reference to the record of any of the evidentiary proceedings below. Neither trial defense counsel nor anyone else has ever testified in this record concerning the matters that purport to support Respondent's position. These matters are completely dehors the record and do not comport with the requirements of Supreme Court Rules 22.1 and 34.1(g); therefore, the Petitioner respectfully submits that they should not be considered by this Court in its disposition of this case.

No matter how strong, tall or solid a structure may appear, if the foundation is weak or faulty and crumbles, the entire structure crumbles and falls. Respondent's argument as to ineffective assistance of counsel crumbles and falls as well. Remove the non-existent factual foundation and the "troubling failure of counsel" is revealed to be and is clearly highlighted as the basis for a constitutionally infirm judgment of the Court of Criminal Appeals of the State of Oklahoma.

CONCLUSION

For these reasons and for the reasons stated in the original Petition, a Writ of Certiorari should issue to

review the judgment and opinion of the Court of Criminal Appeals of the State of Oklahoma.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the within and foregoing Petitioner's Reply To The Response In Opposition To Petition For A Writ Of Certiorari by mailing three copies thereof to counsel of record in an envelope properly stamped and addressed as follows:

Michael C. Turpen
Attorney General of Oklahoma
112 State Capitol Building
Oklahoma City, Oklahoma 73105

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